

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

VERNARDE COTTON,

Plaintiff,

v.

Civil Action No. 3:06CV31

WARDEN JOYCE FRANCIS,

Defendant.

**REPORT AND RECOMMENDATION THAT APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES BE DENIED**

On March 28, 2006, the *pro se* plaintiff, Vernarde Cotton, filed a complaint with the Court. On March 28, 2006, the Clerk's Office mailed a letter to the plaintiff enclosing an Application to Proceed in forma pauperis and other documents explaining the filing fee requirements for this Court. On April 17, 2006, the plaintiff filed his Application to Proceed in in forma pauperis. The ledger sheet reveals that the plaintiff had an account balance of \$17.94 as of April 10, 2006. Consequently, the plaintiff has sufficient funds to pay the \$5.00 filing fee. Accordingly, the plaintiff's request to proceed without prepayment of fees should be denied, and the plaintiff should be ordered to pay the full filing fee.

The plaintiff may file, within ten (10) days after being served with a copy of this Recommendation, with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); United States

v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff.

DATED: May 2, 2006

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE